

**IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

POLICY/PROCEDURE STATEMENT

TOPIC:	Concentrated Animal Feeding Operation Registration Program
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Policy Procedure Number: 5-b-15

Date: March 22, 2001

Effective Date: March 22, 2001

Preparer: Wayne Gieselman

Approval: Director: Jeff Vonk

Date:

Applicable Code of Iowa or Iowa Administrative Code Rule:

455B.183 (1); 567 IAC 64.3 and 65.4 – operation permit required.

Attachments:

Registration Form 542-4013

Environmental Priority Assessment for Open Feedlots

REASON OR BACKGROUND

All open feedlots are required to meet minimum manure control requirements, consisting of settling out of solids prior to discharge to a water of the state. Depending on site-specific factors, a greater level of control may be required to avoid water pollution. All manure removed from control facilities must be land-applied in a manner which will not cause surface or groundwater pollution.

In addition, under federal and state law large open feedlots [1,000+ animal units¹, or 300+ animal units with a discharge from a man-made manure drainage system or a stream that traverses the feedlot area] are required to have a permit to operate from this department.² Such facilities are also required to achieve a higher level of manure control, that is to retain all manure flows from the feedlot areas and other manure-contributing areas resulting from the “25-year, 24-hour precipitation event.”³ The operating permit contains provisions that require specific operational practices, including monitoring and reporting requirements, to assure compliance with this standard.

Historically the DNR has been lax in its regulation of large open feedlots. There are currently only 33 open feedlots in Iowa with operation permits. However, it is estimated there may be

¹ One animal unit = 1 beef cattle, 0.7 dairy cattle, 2.5 swine, 10 sheep, 55 turkeys, or 100 chickens.

² Under current federal law, livestock operations with more than 1,000 animal units are not required to have an NPDES permit if the operation discharges only in the event of a 25 year, 24-hour storm.

³ The standard is translated into site-specific, engineered control structures and practices, for which the producer has a number of options under DNR rules.

up to 300 feedlots in Iowa that exceed 1,000 animal units and many more in the 300-1,000 range.⁴ Our investigations of open feedlots have been on a complaint-only basis until recently. Even now we do not have the resources to do a large number of “routine” inspections. We have taken some enforcement actions against open feedlot operators, most often when serious pollution events have occurred. In cases where we have discovered a facility that did not have a permit but should, our action has been to require them to come into compliance, and resort to punitive enforcement action only if they did not respond promptly to do so.

Our lax enforcement and administration of the operation permit program for large open feedlots are inconsistent with our duties under the Clean Water Act and state law. Driven by lawsuits and three large manure spills, including one that occurred in Iowa, the federal EPA has begun an enforcement effort to bring open feedlots into compliance with the Clean Water Act. EPA has also reviewed our administration of federal requirements the implementation of which has been delegated to us, and has been critical of our lax enforcement. We face the prospect of losing grant funding or even authority to administer the federal operation permit program. In any event, EPA has indicated their intent to continue to inspect facilities in Iowa and follow up with enforcement actions. Irrespective of EPA actions, the fact remains that, depending primarily on topography and proximity to a stream, open feedlots have a high potential for causing water pollution if adequate manure controls are not in place and operated properly and the law requires that larger operations be regulated under a permit program.

The department has met with industry representatives to discuss this subject. They are interested in working with producers and the department to bring about compliance with these requirements, and they would prefer to deal with this department rather than the federal government on these issues. The department has determined, after consultation with stakeholders from the industry and environmental groups, that the most expeditious and efficient means of bringing the most facilities into compliance is to offer an amnesty period. During this period producers may identify their operations, and if permits are required they will be given a reasonable period of time to come into compliance, without the threat of punitive actions by the department for the failure to have obtained a permit. An education and outreach program will be conducted to alert and inform producers of the legal requirements and amnesty opportunity.

DETAILS

A producer feeding animals in an open feedlot existing prior to April 1, 2001, may complete and submit to the department Registration Form 542-4013 at any time postmarked prior to January 1, 2002. From and after the date of registration with the department, the producer will have immunity from being penalized for not having a permit, subject to the following provisions:

⁴ Previously, the Iowa DNR has not required operating permits for open feedlots with more than 1,000 animal units if “because of location, site topography, or other factors, no wastes from the feedlot are discharged into a stream or other water of the state.”

1. As indicated above, this program does not apply to new construction/operation beginning on or after April 1, 2001. Facilities that are required as of the effective date of this document, to take corrective actions through:
 - a. any pending notice of violation, or
 - b. an administrative order issued prior to December 1, 2000,shall continue to be subject to that notice of violation or administrative order until compliance with it is achieved.
2. This program applies to the issue of failure to have a permit. It is recognized that many feedlots that register may not have the full level of controls required, and that some discharges may occur during the compliance periods contemplated under this program. The producer will not be subject to penalties due to this, provided that:
 - a. Minimum manure control [solids removal and land application of solids] must be maintained. IAC 567—65.2(1), 65.2(6), 65.2(7)
 - b. Discharges resulting from gross negligence or willful misconduct in manure handling and which are documented to have caused a violation of a water quality standard may be addressed through normal enforcement procedures.
 - c. The producer must maintain reasonable progress towards compliance as discussed sections 4-7 below. This may include interim manure control measures determined by the department and producer to address specific problems found through the priority assessment and/or on-site investigation.
 - d. Discharges which are documented to cause a violation of a numeric water quality standard, will be evaluated on a case-by-case basis. If the registered producer satisfies the requirements of a-c above the department would normally just require interim corrective actions to address the particular problem. However, if a fish kill is caused, at a minimum restitution for the value of the fish will be sought by the department.
3. If an investigation by DNR is commenced after May 1, 2001, and violation for failure to have a permit is documented prior to registration, this program will not apply. The DNR will not conduct investigations through December 31, 2001, except in response to a complaint or an owner/operator request for an evaluation of registered lots. Routine inspections will resume beginning January 1, 2002. Beginning January 1, 2002, unregistered facilities found to be operating without a permit where a permit is required, are not eligible for this program.
4. The department will evaluate information submitted with the registration pursuant to the Environmental Priority Assessment for Open Feedlots document and prioritize operations as “high priority”, “moderate priority”, or “low priority”. On-site investigations may be required to clarify information and site characteristics. The goal of the department will be to have all high priority

facilities on a compliance schedule within two years, and to have all facilities in compliance within 5 years. However, it is recognized that high priority facilities may have to install more extensive controls, and moderate or low priority facilities less extensive controls, and the compliance schedule deemed reasonable for the particular facility may be influenced by this fact. In general, the department will direct its efforts towards high priority facilities first.

5. If the department concludes that a permit is required, the facility will be notified by the department in writing to submit a complete application for permit. If it is apparent at any time that additional control facilities are needed to meet minimum manure controls required by law, a compliance schedule deemed appropriate to the circumstances of the particular facility, including the priority assessment discussed above, will be established.
6. The provisions of paragraph 2 will apply so long as the facility operator is cooperating with the department to achieve compliance within a reasonable time. The term “cooperate” does not mean that the producer may not question the conclusions of the department through normal informal or formal procedures that may be available.